



January 21, 2004

SENATE BILL No. 441

DIGEST OF SB 441 (Updated January 15, 2004 1:36 pm - DI 44)

Citations Affected: IC 4-22; IC 6-1.1; IC 6-3; IC 21-2; IC 36-7; noncode.

Synopsis: Property tax matters. Provides that emergency rules adopted by the department of local government finance (DLGF) or the Indiana board of tax review concerning the takeover of a county's reassessment process by DLGF may be extended for an unlimited number of extension periods but expire not later than January 1, 2006. Corrects cross-references in the statute governing the deadline for appeals to the Indiana board of tax review concerning reassessment determinations made by DLGF in Lake County after the informal hearing process. Provides that the notice of DLGF's assumption of reassessment duties in a county must be published in a newspaper that is published in that county. Provides that a civil taxing unit or school corporation may appeal for relief in the immediately following year if the civil taxing unit or school corporation: (1) determines that it may experience a property tax shortfall due to the payment of refunds; and (2) experiences such a shortfall by December 31. Provides that payments by a political subdivision to a professional engineer are not prohibited by restrictions on expenditures of money to promote a position on a petition or remonstrance concerning a bond issue. Gives DLGF
(Continued next page)

Effective: May 8, 2003 (retroactive); May 10, 2003 (retroactive); December 12, 2003 (retroactive); January 1, 2004 (retroactive); upon passage.

Borst

January 12, 2004, read first time and referred to Committee on Finance.
January 20, 2004, amended, reported favorably — Do Pass.

SB 441—LS 7330/DI 44+



C
o
p
y

discretion to modify the form of the notice to taxpayers concerning provisional tax statements. Restates language that permits taxpayers to take an extra income tax deduction for 2003 property taxes that are paid in 2004. Adds conforming language concerning the schedule of payments of property tax replacement credits to taxpayers in a military base reuse authority. Specifies that the deadline for taxpayers to file for certain deductions for pay 2004 property taxes was on or before December 15, 2003. Provides that taxpayers who receive a notice of assessment at the same time they receive the tax statement for pay 2004 or pay 2005 property taxes have 45 days after receipt of the tax statement to appeal that year's assessment. Specifies that a provision of SEA 1-2004 that prohibited civil taxing units from adjusting assessed values to reflect the effects of appeals of assessments does not apply to taxes payable in 2003. For property taxes payable in 2004, authorizes a civil taxing unit to appeal for permission to reallocate property tax replacement credits funded from CAGIT for a purpose other than property tax relief. Corrects other technical errors.

**C
o
p
y**



January 21, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

C
O
P
Y

SENATE BILL No. 441

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.1-2004,
- 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking
- 4 action resulting in any of the following rules:
- 5 (1) An order adopted by the commissioner of the Indiana
- 6 department of transportation under IC 9-20-1-3(d) or
- 7 IC 9-21-4-7(a) and designated by the commissioner as an
- 8 emergency rule.
- 9 (2) An action taken by the director of the department of natural
- 10 resources under IC 14-22-2-6(d) or IC 14-22-6-13.
- 11 (3) An emergency temporary standard adopted by the
- 12 occupational safety standards commission under
- 13 IC 22-8-1.1-16.1.
- 14 (4) An emergency rule adopted by the solid waste management
- 15 board under IC 13-22-2-3 and classifying a waste as hazardous.

SB 441—LS 7330/DI 44+



(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule jointly adopted by the water pollution control board and the budget agency under IC 13-18-13-18.

(9) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(10) A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.

(11) An emergency rule adopted by the Indiana transportation finance authority under IC 8-21-12.

(12) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(13) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(14) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(15) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(16) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(17) An emergency rule adopted by the Indiana gaming commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

(18) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(19) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(20) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

C
o
p
y



(21) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(22) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(23) An emergency rule adopted by the Indiana state board of animal health under IC 15-2.1-18-21.

(24) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(25) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34.

(26) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33.

(27) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(28) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) or IC 6-1.1-22.5-20.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

(1) accept the rule for filing; and

(2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

**C
O
P
Y**



(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), **and except as provided in subsection (j), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(14), (a)(25), (a)(26), or (a)(28), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. A rule adopted under subsection (a)(14) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(25), (a)(26), or (a)(28) may be extended for an unlimited number of extension periods.** Except for a rule adopted under subsection (a)(14), (a)(25), (a)(26), or (a)(28), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(9), or (a)(13) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(25) or (a)(26) expires not later than January 1, 2006.

SECTION 2. IC 6-1.1-4-34, AS ADDED BY P.L.235-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 8, 2003 (RETROACTIVE)]: Sec. 34. (a) As used in this section, "special master" refers to a person designated by the Indiana board under subsection (e).

(b) The notice of reassessment under section 32(f) of this chapter is subject to appeal by the taxpayer to the Indiana board. The procedures and time limitations that apply to an appeal to the Indiana board of a determination of the department of local government finance do not apply to an appeal under this subsection. The Indiana board may establish applicable procedures and time limitations under subsection

C
o
p
y



(l).

(c) In order to appeal under subsection (b), the taxpayer must:

(1) request and participate as required in the informal hearing process under section 33 of this chapter not later than forty-five (45) days after the date of the notice of reassessment under section 32(f) of this chapter;

(2) except as provided in section 33(i) of this chapter, receive a notice of changed reassessment under section 33(g) of this chapter; and

(3) file a petition for review with the appropriate county assessor not later than thirty (30) days after:

(A) the date of the notice of the department of local government finance is given to the taxpayer under section 32(f) 33(g) of this chapter; or

(B) the date determined under section 33(i) of this chapter after which the department may not change the amount of the reassessment under the informal hearing process.

(d) The Indiana board may develop a form for petitions under subsection (c) that:

(1) outlines:

(A) the appeal process;

(B) the burden of proof; and

(C) evidence necessary to warrant a change to a reassessment; and

(2) describes:

(A) the increase in the property tax replacement credit; and

(B) other changes to the property tax system;

under P.L.192-2002(ss) that reduced the effect of general reassessment on property tax liability.

(e) The Indiana board may contract with, appoint, or otherwise designate the following to serve as special masters to conduct evidentiary hearings and prepare reports required under subsection (g):

(1) Independent, licensed appraisers.

(2) Attorneys.

(3) Certified level two Indiana assessor-appraisers (including administrative law judges employed by the Indiana board).

(4) Other qualified individuals.

(f) Each contract entered into under subsection (e) must specify the appointee's compensation and entitlement to reimbursement for expenses. The compensation and reimbursement for expenses are paid from the county property reassessment fund. Payments under this subsection from the county property reassessment fund may not exceed

C
o
p
y



1 five hundred thousand dollars (\$500,000).

2 (g) With respect to each petition for review filed under subsection
3 (c), the special masters shall:

4 (1) set a hearing date;

5 (2) give notice of the hearing at least thirty (30) days before the
6 hearing date, by mail, to:

7 (A) the taxpayer;

8 (B) the department of local government finance;

9 (C) the township assessor; and

10 (D) the county assessor;

11 (3) conduct a hearing and hear all evidence submitted under this
12 section; and

13 (4) make evidentiary findings and file a report with the Indiana
14 board.

15 (h) At the hearing under subsection (g):

16 (1) the taxpayer shall present:

17 (A) its evidence that the reassessment is incorrect;

18 (B) the method by which the taxpayer contends the
19 reassessment is correctly determined; and

20 (C) comparable sales, appraisals, or other pertinent
21 information concerning valuation as required by the Indiana
22 board; and

23 (2) the department of local government finance shall present its
24 evidence that the reassessment is correct.

25 (i) The Indiana board may dismiss a petition for review filed under
26 subsection (c) if the evidence and other information required under
27 subsection (h)(1) is not provided at the hearing under subsection (g).

28 (j) The township assessor and the county assessor may attend and
29 participate in the hearing under subsection (g).

30 (k) The Indiana board may:

31 (1) consider the report of the special masters under subsection
32 (g)(4);

33 (2) make a final determination based on the findings of the special
34 masters without:

35 (A) conducting a hearing; or

36 (B) any further proceedings; and

37 (3) incorporate the findings of the special masters into the board's
38 findings in resolution of the appeal.

39 (l) The Indiana board may adopt emergency rules under
40 IC 4-22-2-37.1 to:

41 (1) establish procedures to expedite:

42 (A) the conduct of hearings under subsection (g); and

C
O
P
Y



- 1 (B) the issuance of determinations of appeals under subsection
 2 (b); and
 3 (2) establish deadlines:
 4 (A) for conducting hearings under subsection (g); and
 5 (B) for issuing determinations of appeals under subsection (b).
 6 (m) A determination by the Indiana board of an appeal under
 7 subsection (b) is subject to appeal to the tax court under IC 6-1.1-15.
 8 (n) This section expires December 31, 2005.
 9 SECTION 3. IC 6-1.1-4-35, AS ADDED BY P.L.1-2004, SECTION
 10 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
 11 PASSAGE]: Sec. 35. (a) This section applies to a county other than a
 12 county subject to section 32 of this chapter.
 13 (b) This section applies to a general reassessment of real property
 14 conducted under section 4(a) of this chapter that is scheduled to
 15 become effective for property taxes first due and payable in 2003.
 16 (c) As used in this section, "department" refers to the department of
 17 local government finance.
 18 (d) As used in this section, "reassessment official" means any of the
 19 following:
 20 (1) A county assessor.
 21 (2) A township assessor.
 22 (3) A township trustee-assessor.
 23 (e) If:
 24 (1) the department determines that a county's reassessment
 25 officials are unable to complete the reassessment in a timely
 26 manner; or
 27 (2) the department determines that a county's reassessment
 28 officials are likely to complete the reassessment in an inaccurate
 29 manner;
 30 the department may order a state conducted reassessment in the county.
 31 The department may consider a reassessment in a county untimely if
 32 the county does not submit the county's equalization study to the
 33 department in the manner prescribed under 50 IAC 14 before October
 34 20, 2003. The department may consider the reassessment work of a
 35 county's reassessment officials inaccurate if the department determines
 36 from a sample of the assessments completed in the county that there is
 37 a variance exceeding ten percent (10%) between the total assessed
 38 valuation of the real property within the sample and the total assessed
 39 valuation that would result if the real property within the sample were
 40 valued in the manner provided by law.
 41 (f) If the department orders a state conducted reassessment in a
 42 county, the department shall assume the duties of the county's

C
o
p
y



reassessment officials. Notwithstanding sections 15 and 17 of this chapter, a reassessment official in a county subject to an order issued under this section may not assess property or have property assessed for the general reassessment. Until the state conducted reassessment is completed under this section, the reassessment duties of a reassessment official in the county are limited to providing the department or a contractor of the department the support and information requested by the department or the contractor.

(g) Before assuming the duties of a county's reassessment officials, the department shall transmit a copy of the department's order requiring a state conducted reassessment to the county's reassessment officials, the county fiscal body, the county auditor, and the county treasurer. Notice of the department's actions must be published one (1) time in a newspaper of general circulation **published** in the county. The department is not required to conduct a public hearing before taking action under this section.

(h) Township and county officials in a county subject to an order issued under this section shall, at the request of the department or the department's contractor, make available and provide access to all:

- (1) data;
- (2) records;
- (3) maps;
- (4) parcel record cards;
- (5) forms;
- (6) computer software systems;
- (7) computer hardware systems; and
- (8) other information;

related to the reassessment of real property in the county. The information described in this subsection must be provided at no cost to the department or the contractor of the department. A failure to provide information requested under this subsection constitutes a failure to perform a duty related to a general reassessment and is subject to IC 6-1.1-37-2.

(i) The department may enter into a contract with a professional appraising firm to conduct a reassessment under this section. If a county or a township located in the county entered into a contract with a professional appraising firm to conduct the county's reassessment before the department orders a state conducted reassessment in the county under this section, the contract:

- (1) is as valid as if it had been entered into by the department; and
- (2) shall be treated as the contract of the department.

(j) After receiving the report of assessed values from the appraisal

C
o
p
y



1 firm acting under a contract described in subsection (i), the department
 2 of local government finance shall give notice to the taxpayer and the
 3 county assessor, by mail, of the amount of the reassessment. The notice
 4 of reassessment:

5 (1) is subject to appeal by the taxpayer under section 37 of this
 6 chapter; and

7 (2) must include a statement of the taxpayer's rights under section
 8 37 of this chapter.

9 (k) The department shall forward a bill for services provided under
 10 a contract described in subsection (i) to the auditor of the county in
 11 which the state conducted reassessment occurs. The county shall pay
 12 the bill under the procedures prescribed by subsection (l).

13 (l) A county subject to an order issued under this section shall pay
 14 the cost of a contract described in subsection (i), without appropriation,
 15 from the county's property reassessment fund. A contractor may
 16 periodically submit bills for partial payment of work performed under
 17 the contract. Notwithstanding any other law, a contractor is entitled to
 18 payment under this subsection for work performed under a contract if
 19 the contractor:

20 (1) submits to the department a fully itemized, certified bill in the
 21 form required by IC 5-11-10-1 for the costs of the work performed
 22 under the contract;

23 (2) obtains from the department:

24 (A) approval of the form and amount of the bill; and

25 (B) a certification that the billed goods and services have been
 26 received and comply with the contract; and

27 (3) files with the county auditor:

28 (A) a duplicate copy of the bill submitted to the department;

29 (B) proof of the department's approval of the form and amount
 30 of the bill; and

31 (C) the department's certification that the billed goods and
 32 services have been received and comply with the contract.

33 The department's approval and certification of a bill under subdivision
 34 (2) shall be treated as conclusively resolving the merits of a contractor's
 35 claim. Upon receipt of the documentation described in subdivision (3),
 36 the county auditor shall immediately certify that the bill is true and
 37 correct without further audit, publish the claim as required by
 38 IC 36-2-6-3, and submit the claim to the county executive. The county
 39 executive shall allow the claim, in full, as approved by the department,
 40 without further examination of the merits of the claim in a regular or
 41 special session that is held not less than three (3) days and not more
 42 than seven (7) days after the completion of the publication

C
O
P
Y



requirements under IC 36-2-6-3. Upon allowance of the claim by the county executive, the county auditor shall immediately issue a warrant or check for the full amount of the claim approved by the department. Compliance with this subsection constitutes compliance with section 28.5 of this chapter, IC 5-11-6-1, IC 5-11-10, and IC 36-2-6. The determination and payment of a claim in compliance with this subsection is not subject to remonstrance and appeal. IC 36-2-6-4(f) and IC 36-2-6-9 do not apply to a claim submitted under this subsection. IC 5-11-10-1.6(d) applies to a fiscal officer who pays a claim in compliance with this subsection.

(m) Notwithstanding IC 4-13-2, a period of seven (7) days is permitted for each of the following to review and act under IC 4-13-2 on a contract of the department entered into under this section:

- (1) The commissioner of the Indiana department of administration.
- (2) The director of the budget agency.
- (3) The attorney general.

(n) If the money in a county's property reassessment fund is insufficient to pay for a reassessment conducted under this section, the department may increase the tax rate and tax levy of the county's property reassessment fund to pay the cost and expenses related to the reassessment.

(o) The department or the contractor of the department shall use the land values determined under section 13.6 of this chapter for a county subject to an order issued under this section to the extent that the department or the contractor finds that the land values reflect the true tax value of land, as determined under this article and the rules of the department. If the department or the contractor finds that the land values determined for the county under section 13.6 of this chapter do not reflect the true tax value of land, the department or the contractor shall determine land values for the county that reflect the true tax value of land, as determined under this article and the rules of the department. Land values determined under this subsection shall be used to the same extent as if the land values had been determined under section 13.6 of this chapter. The department or the contractor of the department shall notify the county's reassessment officials of the land values determined under this subsection.

(p) A contractor of the department may notify the department if:

- (1) a county auditor fails to:
 - (A) certify the contractor's bill;
 - (B) publish the contractor's claim;
 - (C) submit the contractor's claim to the county executive; or

C
o
p
y



1 (D) issue a warrant or check for payment of the contractor's
 2 bill;
 3 as required by subsection (l) at the county auditor's first legal
 4 opportunity to do so;
 5 (2) a county executive fails to allow the contractor's claim as
 6 legally required by subsection (l) at the county executive's first
 7 legal opportunity to do so; or
 8 (3) a person or an entity authorized to act on behalf of the county
 9 takes or fails to take an action, including failure to request an
 10 appropriation, and that action or failure to act delays or halts
 11 progress under this section for payment of the contractor's bill.
 12 (q) The department, upon receiving notice under subsection (p)
 13 from a contractor of the department, shall:
 14 (1) verify the accuracy of the contractor's assertion in the notice
 15 that:
 16 (A) a failure occurred as described in subsection (p)(1) or
 17 (p)(2); or
 18 (B) a person or entity acted or failed to act as described in
 19 subsection (p)(3); and
 20 (2) provide to the treasurer of state the department's approval
 21 under subsection (l)(2)(A) of the contractor's bill with respect to
 22 which the contractor gave notice under subsection (p).
 23 (r) Upon receipt of the department's approval of a contractor's bill
 24 under subsection (q), the treasurer of state shall pay the contractor the
 25 amount of the bill approved by the department from money in the
 26 possession of the state that would otherwise be available for
 27 distribution to the county, including distributions from the property tax
 28 replacement fund or distribution of admissions taxes or wagering taxes.
 29 (s) The treasurer of state shall withhold from the money that would
 30 be distributed under IC 4-33-12-6, IC 4-33-13-5, IC 6-1.1-21-4(b) or
 31 any other law to a county described in a notice provided under
 32 subsection (p) the amount of a payment made by the treasurer of state
 33 to the contractor of the department under subsection (r). Money shall
 34 be withheld first from the money payable to the county under
 35 IC 6-1.1-21-4(b) and then from all other sources payable to the county.
 36 (t) Compliance with subsections (p) through (s) constitutes
 37 compliance with IC 5-11-10.
 38 (u) IC 5-11-10-1.6(d) applies to the treasurer of state with respect
 39 to the payment made in compliance with subsections (p) through (s).
 40 This subsection and subsections (p) through (s) must be interpreted
 41 liberally so that the state shall, to the extent legally valid, ensure that
 42 the contractual obligations of a county subject to this section are paid.

C
O
P
Y



1 Nothing in this section shall be construed to create a debt of the state.

2 (v) The provisions of this section are severable as provided in
3 IC 1-1-1-8(b).

4 (w) This section expires January 1, 2007.

5 SECTION 4. IC 6-1.1-18.5-1, AS AMENDED BY P.L.1-2004,
6 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 DECEMBER 12, 2003 (RETROACTIVE)]: Sec. 1. As used in this
8 chapter:

9 "Ad valorem property tax levy for an ensuing calendar year" means
10 the total property taxes imposed by a civil taxing unit for current
11 property taxes collectible in that ensuing calendar year.

12 "Adopting county" means any county in which the county adjusted
13 gross income tax is in effect.

14 "Civil taxing unit" means any taxing unit except a school
15 corporation.

16 "Maximum permissible ad valorem property tax levy for the
17 preceding calendar year" means the civil taxing unit's ad valorem
18 property tax levy for the calendar year immediately preceding the
19 ensuing calendar year, as that levy was determined by the department
20 of local government finance in fixing the civil taxing unit's budget,
21 levy, and rate for that preceding calendar year under IC 6-1.1-17, and
22 after eliminating the effects of temporary excessive levy appeals and
23 temporary adjustments made to the ~~working~~ **certified** maximum levy
24 for the calendar year immediately preceding the ensuing calendar year,
25 as determined by the department of local government finance.

26 "Taxable property" means all tangible property that is subject to the
27 tax imposed by this article and is not exempt from the tax under
28 IC 6-1.1-10 or any other law. For purposes of sections 2 and 3 of this
29 chapter, the term "taxable property" is further defined in section 6 of
30 this chapter.

31 "Unadjusted assessed value" means the assessed value of a civil
32 taxing unit as determined by local assessing officials and the
33 department of local government finance in a particular calendar year
34 before the application of an annual adjustment under IC 6-1.1-4-4.5 for
35 that particular calendar year or any calendar year since the last general
36 reassessment preceding the particular calendar year.

37 SECTION 5. IC 6-1.1-18.5-16, AS AMENDED BY P.L.1-2004,
38 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 UPON PASSAGE]: Sec. 16. (a) A civil taxing unit may request
40 permission from the local government tax control board to impose an
41 ad valorem property tax levy that exceeds the limits imposed by section
42 3 of this chapter if:

C
o
p
y



(1) the civil taxing unit experienced a property tax revenue shortfall that resulted from erroneous assessed valuation figures being provided to the civil taxing unit;

(2) the erroneous assessed valuation figures were used by the civil taxing unit in determining its total property tax rate; and

(3) the error in the assessed valuation figures was found after the civil taxing unit's property tax levy resulting from that total rate was finally approved by the department of local government finance.

(b) A civil taxing unit may request permission from the local government tax control board to impose an ad valorem property tax levy that exceeds the limits imposed by section 3 of this chapter if the civil taxing unit ~~experienced~~ **determines that it may experience** a property tax revenue shortfall because of the payment of refunds, **and by December 31 the civil taxing unit does experience a property tax revenue shortfall because of the payment of refunds**, that resulted from appeals under this article and IC 6-1.5.

(c) If the local government tax control board determines that a shortfall described in subsection (a) or (b) has occurred, it shall recommend to the department of local government finance that the civil taxing unit be allowed to impose a property tax levy exceeding the limit imposed by section 3 of this chapter, and the department may adopt such recommendation. However, the maximum amount by which the civil taxing unit's levy may be increased over the limits imposed by section 3 of this chapter equals the remainder of the civil taxing unit's property tax levy for the particular calendar year as finally approved by the department of local government finance minus the actual property tax levy collected by the civil taxing unit for that particular calendar year.

(d) Any property taxes collected by a civil taxing unit over the limits imposed by section 3 of this chapter under the authority of this section may not be treated as a part of the civil taxing unit's maximum permissible ad valorem property tax levy for purposes of determining its maximum permissible ad valorem property tax levy for future years.

(e) If the department of local government finance authorizes an excess tax levy under this section, it shall take appropriate steps to insure that the proceeds are first used to repay any loan made to the civil taxing unit for the purpose of meeting its current expenses.

SECTION 6. IC 6-1.1-19-4.7, AS AMENDED BY P.L.1-2004, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.7. (a) With respect to every appeal petition that:

C
o
p
y



(1) is delivered to the tax control board by the department of local government finance under section 4.1 of this chapter; and
 (2) includes a request for emergency relief for the purpose of making up a shortfall that has resulted:

(A) whenever:

- (i) erroneous assessed valuation figures were provided to the school corporation;
- (ii) erroneous figures were used to determine the school corporation's total property tax rate; and
- (iii) the school corporation's general fund tax levy was reduced under IC 6-1.1-17-16(d); or

(B) **whenever the school corporation determines that it may experience a property tax revenue shortfall because of the payment of refunds, and by December 31 does experience a property tax revenue shortfall** because of the payment of refunds, that resulted from appeals under this article and IC 6-1.5;

the tax control board shall recommend to the department of local government finance that the school corporation receive emergency financial relief. The relief shall be in the form specified in section 4.5(b)(1) through 4.5(b)(7) of this chapter, or in a combination of the forms of relief specified in section 4.5(b)(1) through 4.5(b)(7) of this chapter.

(b) The tax control board shall, if the tax control board determines that a shortfall exists as described in subsection (a), recommend that a school corporation that appeals for the purpose stated in subsection (a) be permitted to collect an excessive tax levy for a specified calendar year in the amount of the difference between:

- (1) the school corporation's property tax levy for a particular year as finally approved by the department of local government finance; and
- (2) the school corporation's actual property tax levy for the particular year.

(c) With respect to each appeal petition: ~~that:~~

- (1) **that** is delivered to the tax control board by the department of local government finance under section 4.1 of this chapter;
- (2) **that** includes a request for emergency relief for the purpose of making up a shortfall that has resulted because of a delinquent property taxpayer; and
- (3) **for which** the tax control board finds that the balance in the school corporation's levy excess fund plus the property taxes collected for the school corporation is less than ninety-eight

C
o
p
y



percent (98%) of the school corporation's property tax levy for that year, as finally approved by the department of local government finance;

the tax control board may recommend to the department of local government finance that the school corporation receive emergency financial relief in the form specified in section 4.5(b)(1) through 4.5(b)(7) of this chapter and be permitted to collect an excessive tax levy for a specified calendar year in the amount of the difference between the school corporation's property tax levy for a particular year, as finally approved by the department, and the school corporation's actual property tax collections plus any balance in the school corporation's levy excess fund.

(d) Every recommendation made by the tax control board under this section shall specify the amount of the excessive tax levy. The department of local government finance may authorize the school board to make an excessive tax levy in accordance with the recommendation without any other proceeding. Whenever the department of local government finance authorizes an excessive tax levy under this subsection, the department shall take appropriate steps to ensure that the proceeds of the excessive tax levy are first used to repay any loan authorized under sections 4.3 through 5.3 of this chapter.

SECTION 7. IC 6-1.1-20-10, AS ADDED BY P.L.1-2004, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) If a petition and remonstrance process is commenced under section 3.2 of this chapter, during the sixty (60) day period commencing with the notice under section 3.2(1) of this chapter, the political subdivision seeking to issue bonds or enter into a lease for the proposed controlled project may not promote a position on the petition or remonstrance by doing any of the following:

(1) Allowing facilities or equipment, including mail and messaging systems, owned by the political subdivision to be used for public relations purposes to promote a position on the petition or remonstrance, unless equal access to the facilities or equipment is given to persons with a position opposite to that of the political subdivision.

(2) Making an expenditure of money from a fund controlled by the political subdivision to promote a position on the petition or remonstrance (except as necessary to explain the project to the public) or to pay for the gathering of signatures on a petition or remonstrance. This subdivision does not prohibit a political subdivision from making an expenditure of money to an attorney,

**C
O
P
Y**



an architect, a construction manager, **a professional engineer**, or a financial adviser for professional services provided with respect to a controlled project.

(3) Using an employee to promote a position on the petition or remonstrance during the employee's normal working hours or paid overtime.

(4) In the case of a school corporation, promoting a position on a petition or remonstrance by:

(A) using students to transport written materials to their residences; or

(B) including a statement within another communication sent to the students' residences.

However, this section does not prohibit an employee of the political subdivision from carrying out duties with respect to a petition or remonstrance that are part of the normal and regular conduct of the employee's office or agency.

(b) A person may not solicit or collect signatures for a petition or remonstrance on property owned or controlled by the political subdivision.

SECTION 8. IC 6-1.1-22.5-8, AS ADDED BY P.L.1-2004, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. A provisional statement must:

(1) be on a form approved by the state board of accounts;

(2) except as provided in emergency rules adopted under section 20 of this chapter, indicate tax liability in the amount of ninety percent (90%) of the tax liability that was payable in the same year as the assessment date for the property for which the provisional statement is issued;

(3) indicate:

(A) that the tax liability under the provisional statement is determined as described in subdivision (2); and

(B) that property taxes billed on the provisional statement:

(i) are due and payable in the same manner as property taxes billed on a tax statement under IC 6-1.1-22-8; and

(ii) will be credited against a reconciling statement;

(4) include **a statement in the following ~~statement~~ or a substantially similar form, as determined by the department of local government finance:**

"Under Indiana law, _____ County (insert county) has elected to send provisional statements because the county did not complete the abstract of the property, assessments, taxes, deductions, and exemptions for taxes payable in (insert year) in

C
o
p
y



each taxing district before March 16, (insert year). The statement is due to be paid in installments on May 10 and November 10. The statement is based on ninety percent (90%) of your tax liability for taxes payable in (insert year), subject to adjustment for any new construction on your property **or any damage to your property**. After the abstract of property is complete, you will receive a reconciling statement in the amount of your actual tax liability for taxes payable in (insert year), minus the amount you pay under this provisional statement.";

(5) indicate **that** liability for:

(A) delinquent:

(i) taxes; and

(ii) special assessments;

(B) penalties; and

(C) interest;

is allowed to appear on the tax statement under IC 6-1.1-22-8 for the May installment of property taxes in the year in which the provisional tax statement is issued; and

(6) include any other information the county treasurer requires.

SECTION 9. IC 6-3-1-3.5, AS AMENDED BY P.L.1-2004, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).

(4) Subtract one thousand dollars (\$1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which

C
o
p
y



the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and

(B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars (\$2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before

C
O
P
Y



January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of ~~2004~~, the amount determined under subsection (f); and

(ii) beginning after ~~December 31, 2004~~, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to

C
o
p
y



1 apply bonus depreciation to the property in the year that it was
2 placed in service.

3 (b) In the case of corporations, the same as "taxable income" (as
4 defined in Section 63 of the Internal Revenue Code) adjusted as
5 follows:

6 (1) Subtract income that is exempt from taxation under this article
7 by the Constitution and statutes of the United States.

8 (2) Add an amount equal to any deduction or deductions allowed
9 or allowable pursuant to Section 170 of the Internal Revenue
10 Code.

11 (3) Add an amount equal to any deduction or deductions allowed
12 or allowable pursuant to Section 63 of the Internal Revenue Code
13 for taxes based on or measured by income and levied at the state
14 level by any state of the United States.

15 (4) Subtract an amount equal to the amount included in the
16 corporation's taxable income under Section 78 of the Internal
17 Revenue Code.

18 (5) Add or subtract the amount necessary to make the adjusted
19 gross income of any taxpayer that owns property for which bonus
20 depreciation was allowed in the current taxable year or in an
21 earlier taxable year equal to the amount of adjusted gross income
22 that would have been computed had an election not been made
23 under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to
24 apply bonus depreciation to the property in the year that it was
25 placed in service.

26 (c) In the case of life insurance companies (as defined in Section
27 816(a) of the Internal Revenue Code) that are organized under Indiana
28 law, the same as "life insurance company taxable income" (as defined
29 in Section 801 of the Internal Revenue Code), adjusted as follows:

30 (1) Subtract income that is exempt from taxation under this article
31 by the Constitution and statutes of the United States.

32 (2) Add an amount equal to any deduction allowed or allowable
33 under Section 170 of the Internal Revenue Code.

34 (3) Add an amount equal to a deduction allowed or allowable
35 under Section 805 or Section 831(c) of the Internal Revenue Code
36 for taxes based on or measured by income and levied at the state
37 level by any state.

38 (4) Subtract an amount equal to the amount included in the
39 company's taxable income under Section 78 of the Internal
40 Revenue Code.

41 (5) Add or subtract the amount necessary to make the adjusted
42 gross income of any taxpayer that owns property for which bonus

C
o
p
y



depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an

C
o
p
y



earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP THREE amount and two thousand five hundred dollars (\$2,500).

SECTION 10. IC 21-2-11.5-3, AS AMENDED BY P.L.1-2004, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 12, 2003 (RETROACTIVE)]: Sec. 3. (a) Subject to subsection (b), each school corporation may levy for the calendar year a property tax for the school transportation fund sufficient to pay all operating costs attributable to transportation that:

(1) are not paid from other revenues available to the fund as specified in section 4 of this chapter; and

(2) are listed in section 2(a)(1) through 2(a)(7) of this chapter.

(b) For each year after 2003, the levy for the fund may not exceed the levy for the previous year, as that levy was determined by the department of local government finance in fixing the ~~civil taxing unit's~~ **school corporation's** budget, levy, and rate for that preceding calendar year under IC 6-1.1-17 and after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for the calendar year, multiplied by the assessed value growth quotient determined under STEP FOUR of the following formula:

STEP ONE: For each of the six (6) calendar years immediately preceding the year in which a budget is adopted under

C
o
p
y



IC 6-1.1-17-5 or IC 6-1.1-17-5.6 for part or all of the ensuing calendar year, divide the Indiana nonfarm personal income for the calendar year by the Indiana nonfarm personal income for the calendar year immediately preceding that calendar year, rounding to the nearest one-thousandth (0.001).

STEP TWO: Determine the sum of the STEP ONE results.

STEP THREE: Divide the STEP TWO result by six (6), rounding to the nearest one-thousandth (0.001).

STEP FOUR: Determine the lesser of the following:

(A) The STEP THREE quotient.

(B) One and six-hundredths (1.06).

If the amount levied in a particular year exceeds the amount necessary to cover the costs payable from the fund, the levy in the following year shall be reduced by the amount of surplus money.

(c) Each school corporation may levy for the calendar year a tax for the school bus replacement fund in accordance with the school bus acquisition plan adopted under section 3.1 of this chapter.

(d) The tax rate and levy for each fund shall be established as a part of the annual budget for the calendar year in accord with IC 6-1.1-17.

SECTION 11. IC 36-7-30-27, AS AMENDED BY P.L.192-2002(ss), SECTION 186, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) As used in this section, "allocation area" has the meaning set forth in section 25 of this chapter.

(b) As used in this section, "taxing district" has the meaning set forth in IC 6-1.1-1-20.

(c) Subject to subsection (e) **and except as provided in subsection (h)**, each taxpayer in an allocation area is entitled to an additional credit for taxes (as defined in IC 6-1.1-21-2) that under IC 6-1.1-22-9 are due and payable in May and November of that year. **Except as provided in subsection (h)**, one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2). This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as

C
o
p
y



1 determined under IC 6-1.1-21-4 that is attributable to the
 2 taxing district; by
 3 (B) the STEP ONE sum.
 4 STEP THREE: Multiply:
 5 (A) the STEP TWO quotient; times
 6 (B) the total amount of the taxpayer's taxes (as defined in
 7 IC 6-1.1-21-2) levied in the taxing district that would have
 8 been allocated to an allocation fund under section 25 of this
 9 chapter had the additional credit described in this section not
 10 been given.
 11 The additional credit reduces the amount of proceeds allocated to the
 12 military base reuse district and paid into an allocation fund under
 13 section 25(b)(2) of this chapter.
 14 (d) If the additional credit under subsection (c) is not reduced under
 15 subsection (e) or (f), the credit for property tax replacement under
 16 IC 6-1.1-21-5 and the additional credit under subsection (c) shall be
 17 computed on an aggregate basis for all taxpayers in a taxing district
 18 that contains all or part of an allocation area. The credit for property tax
 19 replacement under IC 6-1.1-21-5 and the additional credit under
 20 subsection (c) shall be combined on the tax statements sent to each
 21 taxpayer.
 22 (e) Upon the recommendation of the reuse authority, the municipal
 23 legislative body (in the case of a reuse authority established by a
 24 municipality) or the county executive (in the case of a reuse authority
 25 established by a county) may by resolution provide that the additional
 26 credit described in subsection (c):
 27 (1) does not apply in a specified allocation area; or
 28 (2) is to be reduced by a uniform percentage for all taxpayers in
 29 a specified allocation area.
 30 (f) If the municipal legislative body or county executive determines
 31 that granting the full additional credit under subsection (c) would
 32 adversely affect the interests of the holders of bonds or other
 33 contractual obligations that are payable from allocated tax proceeds in
 34 that allocation area in a way that would create a reasonable expectation
 35 that those bonds or other contractual obligations would not be paid
 36 when due, the municipal legislative body or county executive must
 37 adopt a resolution under subsection (e) to deny the additional credit or
 38 reduce the credit to a level that creates a reasonable expectation that
 39 the bonds or other obligations will be paid when due. A resolution
 40 adopted under subsection (e) denies or reduces the additional credit for
 41 property taxes first due and payable in the allocation area in any year
 42 following the year in which the resolution is adopted.

C
 o
 p
 y



(g) A resolution adopted under subsection (e) remains in effect until rescinded by the body that originally adopted the resolution. However, a resolution may not be rescinded if the rescission would adversely affect the interests of the holders of bonds or other obligations that are payable from allocated tax proceeds in that allocation area in a way that would create a reasonable expectation that the principal of or interest on the bonds or other obligations would not be paid when due. If a resolution is rescinded and no other resolution is adopted, the additional credit described in subsection (c) applies to property taxes first due and payable in the allocation area in each year following the year in which the resolution is rescinded.

(h) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (c) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

SECTION 12. P.L.1-2004, SECTION 78, IS REPEALED [EFFECTIVE DECEMBER 12, 2003 (RETROACTIVE)].

SECTION 13. P.L.1-2004, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 12, 2003 (RETROACTIVE)]: SECTION 68. (a) For purposes of this SECTION, "benefit" means:

- (1) a credit under IC 6-1.1-20.9; or
- (2) a deduction under any of the following:
 - IC 6-1.1-12-1
 - IC 6-1.1-12-9, as amended by this act
 - IC 6-1.1-12-11
 - IC 6-1.1-12-13
 - IC 6-1.1-12-14
 - IC 6-1.1-12-16
 - IC 6-1.1-12-17.4.

(b) This SECTION applies to an individual who, with respect to a real property parcel:

- (1) did not receive a benefit for property taxes first due and payable in 2003;

C
o
p
y



(2) met the eligibility criteria for the benefit under a section referred to in subsection (a) for property taxes first due and payable in 2004; and

(3) did not file a timely application as required by law for the benefit for property taxes first due and payable in 2004.

(c) Except as provided in subsection (d), an individual may:

(1) claim a benefit referred to in subsection (a)(1) by meeting the filing requirements of IC 6-1.1-20.9; and

(2) claim a benefit referred to in subsection (a)(2) by meeting the filing requirements of IC 6-1.1-12.

(d) The filing requirements for a benefit under this SECTION must be met **on or** before December 15, 2003.

(e) The department of local government finance shall:

(1) prescribe forms; or

(2) issue instructions for the use of existing forms; for filing a claim under subsection (c).

(f) The county auditor shall determine the individual's eligibility for a benefit under this SECTION. If the county auditor determines that an individual is eligible for a benefit under this SECTION for a parcel, the county auditor shall:

(1) apply the benefit with respect to taxes first due and payable in 2004 for the parcel; and

(2) before January 1, 2004:

(A) send to the department of local government finance a revised certification under IC 6-1.1-17-1(a) for the county that reflects:

(i) the benefits applied under this SECTION; and

(ii) deductions under IC 6-1.1-12-37 applied as described in subsection (j); and

(B) certify to the department of local government finance the amount of homestead credits allowed in the county under this SECTION for property taxes first due and payable in 2004.

(g) The department of local government finance shall use the revised certifications received under subsection (f)(2)(A) in the department's determination of tax rates under IC 6-1.1-17-16 for taxes first due and payable in 2004. Notwithstanding IC 6-1.1-17-16(d), the department of local government finance may increase a political subdivision's tax rate to an amount that exceeds the amount originally fixed by the political subdivision based on the revised certification received under subsection (f)(2)(A).

(h) Before March 15, 2004, the auditor of state shall certify the amount of homestead credits referred to in subsection (f)(2)(B) to the

C
o
p
y



department of state revenue. For property taxes first due and payable in 2004, the department of state revenue shall allocate under IC 6-1.1-21-4 from the property tax replacement fund an additional amount equal to the total amount of homestead credits allowed under this SECTION for property taxes first due and payable in 2004. The department of state revenue shall distribute the amount allocated under this subsection in the same manner that other property tax replacement fund distributions are made in 2004.

(i) A statement filed under this SECTION to obtain a benefit for property taxes first due and payable in 2004 applies for that year and any succeeding year for which the benefit is allowed.

(j) Each year a person who is entitled under this SECTION to receive the homestead credit under IC 6-1.1-20.9 for property taxes first due and payable in 2004 is entitled for that year to the deduction under IC 6-1.1-12-37 from the assessed value of the real property that qualifies for the homestead credit.

SECTION 14. [EFFECTIVE MAY 10, 2003 (RETROACTIVE)] (a) The definitions in IC 6-1.1-1 apply throughout this SECTION.

(b) Except as provided in subsection (c), a review of an assessment of real property for the 2003 assessment date initiated by a taxpayer after May 10, 2003, and not later than forty-five (45) days after the taxpayer receives a tax statement for the property taxes that are based on the assessment of the real property for the 2003 assessment date, is valid if:

(1) the review:

(A) was initiated before December 12, 2003; and

(B) complied with IC 6-1.1-15-1, as in effect before the amendments made by P.L.1-2004; or

(2) the review:

(A) is initiated after December 11, 2003; and

(B) complies with IC 6-1.1-15-1, as amended by P.L.1-2004;

other than the requirement for initiating the review not later than May 10, 2003.

(c) Subsection (b) does not apply if a notice of a change of assessment for the real property for the 2003 assessment date is given to the taxpayer. In this case, the taxpayer may initiate a review of the 2003 assessment of the real property by complying with IC 6-1.1-15-1, as in effect on the date the notice is given.

(d) Except as provided in subsection (e), a review of an assessment of real property for the 2004 assessment date initiated by a taxpayer after May 10, 2004, and not later than forty-five (45)

C
o
p
y



days after the taxpayer receives a tax statement for the property taxes that are based on the assessment of the real property for the 2004 assessment date is valid if the review complies with IC 6-1.1-15-1, as amended by P.L.1-2004, other than the requirement for initiating the review not later than May 10, 2004.

(e) Subsection (d) does not apply if a notice of a change of assessment for the real property for the 2004 assessment date is given to the taxpayer. In this case, the taxpayer may initiate a review of the 2004 assessment of the real property by complying with IC 6-1.1-15-1, as amended by P.L.1-2004.

SECTION 15. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)] (a) The definitions set forth in IC 6-1.1-1 and IC 6-3-1 apply throughout this SECTION.

(b) As used in this SECTION, "deferred property tax payments" means property taxes imposed on an individual's principal place of residence for the March 1, 2002, assessment date or the January 15, 2003, assessment date that are paid during calendar year 2004.

(c) An individual who pays deferred property tax payments during a taxable year is entitled to a deduction from adjusted gross income for those payments. The amount of the deduction is the lesser of:

- (1) the amount of deferred property payments paid by the individual during the taxable year; or
- (2) two thousand five hundred dollars (\$2,500) minus the amount of the deduction, if any, claimed by the individual for the preceding taxable year under IC 6-3-1-3.5(a)(17) for property taxes actually paid by the individual during calendar year 2003.

(d) The deduction provided by this SECTION is in addition to the deduction provided by IC 6-3-1-3.5(a)(17) for other property taxes paid during the same taxable year.

SECTION 16. [EFFECTIVE DECEMBER 12, 2003 (RETROACTIVE)] IC 6-1.1-15-10, as amended by P.L.1-2004, SECTION 17, applies only to property taxes first due and payable after December 31, 2003.

SECTION 17. [EFFECTIVE UPON PASSAGE] IC 6-1.1-18.5-16 and IC 6-1.1-19-4.7, both as amended by this act, apply to property taxes first due and payable after December 31, 2003.

SECTION 18. [EFFECTIVE UPON PASSAGE] (a) With respect to an appeal filed under IC 6-1.1-18.5-12, the local government tax control board may recommend that a civil taxing unit receive

C
O
P
Y



1 permission to reallocate for a purpose other than property tax
2 relief all or part of the amount that would otherwise be set aside
3 during 2004 as a property tax replacement credit as required by
4 IC 6-3.5-1.1. However, whenever this occurs, the local government
5 tax control board shall also state the amount to be reallocated.
6 (b) This SECTION expires July 1, 2005.
7 SECTION 19. An emergency is declared for this act.

**C
o
p
y**



COMMITTEE REPORT

Madam President: The Senate Committee on Finance, to which was referred Senate Bill No. 441, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 27, line 24, delete "2002" and insert "**2003**".

Page 27, line 26, delete "the date of passage of this act;" and insert "**December 12, 2003;**".

Page 27, line 30, delete "the date of passage of this act;" and insert "**December 11, 2003;**".

Page 28, line 3, delete "2003" and insert "**2004**".

Page 28, line 4, delete "this act," and insert "**P.L.1-2004,**".

Page 28, line 10, delete "this act." and insert "**P.L.1-2004.**".

and when so amended that said bill do pass.

(Reference is to SB 441 as introduced.)

BORST, Chairperson

Committee Vote: Yeas 14, Nays 0.

C
o
p
y

